

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed February 28, 2005. Claims 1-26 were pending in the Application. In the Office Action, Claims 1-26 were rejected. Thus, Claims 1-26 remain pending in the Application. In view of the foregoing, Applicants respectfully request reconsideration and favorable action in this case.

In the Office Action, the following actions were taken or matters were raised:

SECTION 102 REJECTIONS

Claims 1-5, 10-14, 19-23, 25 and 26 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,499,340 issued to Barritz (hereinafter “*Barritz*”). Applicants respectfully traverse these rejections.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); MPEP 2131. Additionally, “[t]he identical invention must be shown in as complete detail as is contained in . . . the claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); MPEP 2131.

Of the rejected claims, Claims 1, 10 and 19 are independent. In rejecting independent Claim 1, for example, the Examiner has simply reproduced all the claim limitations of Claim 1 and then refers generally to various portions of *Barritz* by stating “(e.g. col. 8, line 65-col. 9, line 8, col. 10, lines 1-22 and line 65-col. 11, line 24)” (Office Action, page 2). Applicants respectfully remind the Examiner that 35 U.S.C. § 102 clearly states that “[a] person shall be entitled to a patent unless . . .” Accordingly, the burden for proving anticipation under 35 U.S.C. § 102 is on the Examiner, and it is the Examiner who has to prove that a claim is not patentable. In rejecting Claim 1 (and remaining Claims 2-5, 10-14, 19-23, 25 and 26), the Examiner has not provided any reasoning or made any assertions as to why he believes that the portions of *Barritz* referred to anticipate Claims 1-5, 10-14, 19-23, 25 and 26. Applicants

submit that the cited portions of *Barritz* do not teach or suggest all limitations of Claims 1-5, 10-14, 19-23, 25 and 26. Because the Office Action fails to provide any indication of which components of *Barritz* are relied upon by the Examiner to teach the limitations of Claims 1-5, 10-14, 19-23, 25 and 26, Applicants find it difficult, if not impossible, to adequately address the Examiner's rejection. Applicants request the Examiner to clearly indicate which components of *Barritz* the Examiner is relying on to teach the limitations of Claims 1-5, 10-14, 19-23, 25 and 26 so that Applicants may have an opportunity to address the Examiner's concerns. For example, independent Claim 1 recites: "a target", "a probe operable to execute in the target and collect a predetermined set of data associated with the target", and "a monitor operable to receive the collected predetermined set of data to compare with expected data values to determine whether the target has been altered." The portions of *Barritz* referred to by the Examiner fail to disclose or even suggest the limitations recited by independent Claim 1, and Applicants are unable to determine why the Examiner believes that the portions of *Barritz* referred to by the Examiner anticipate Claim 1. Applicants respectfully remind the Examiner that in order to make a *prima facie* case of anticipation, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim" and that each and every element as set forth in the claim must be found in the reference. Applicants submit that such detail is lacking in *Barritz*, and the Office Action fails to explain why the Examiner believes that such detail is present in *Barritz*. As just one example, Applicants submit that *Barritz* does not teach or even suggest "a monitor operable to receive the collected predetermined set of data to compare with expected data values to determine whether the target has been altered" as recited by Claim 1 (emphasis added). Therefore, for at least this reason, Applicants submit that *Barritz* does not anticipate independent Claim 1.

Independent Claim 10 recites, at least in part, "collecting a predetermined set of data associated with the target for comparison with expected data values for the predetermined set of data to determine whether the target has been altered." (emphasis added). Independent Claim 19 recites, at least in part, "comparing the received predetermined set of data with expected data values thereof to determine whether the target has been altered." (emphasis added). For at least the reasons discussed above in connection with independent Claim 1, Applicants submit that *Barritz* does not anticipate independent Claims 10 and 19.

Claims 2-5, 11-14 and 20-23, that depend respectively from independent Claims 1, 10 and 19 are also not anticipated by *Barritz* at least because they incorporate the limitations of respective Claims 1, 10 and 19 and also additional elements that further distinguish *Barritz*. Therefore, Applicant respectfully submits the rejection of Claims 1-5, 10-14, 19-23, 25 and 26 is improper and should be withdrawn.

SECTION 103 REJECTIONS

Claims 6-9, 15-18 and 24 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Barritz* in view of Bruce Schneier, "Applied Cryptography, Second Edition, Protocols, Algorithms and source code in C", 1996, pages 30-31, 41-44 and 48-50 (hereinafter "Schneier"). Applicants respectfully traverse this rejection.

Claims 6-9 depend from independent Claim 1, Claims 15-18 depend from independent Claim 10, and Claim 24 depends from independent Claim 19. For at least the reasons discussed above, Claims 1, 10 and 19 are in condition for allowance and, therefore, Claims 6-9, 15-18 and 24 that depend respectively therefrom are also in condition for allowance. Moreover, *Schneier* does not appear to remedy at least the deficiencies of *Barritz* discussed above. Therefore, for at least these reasons, Applicants respectfully request that the rejection of Claims 6-9, 15-18 and 24 be withdrawn.

CONCLUSION

Applicants have made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for other reasons clearly apparent, Applicants respectfully request reconsideration and full allowance of all pending claims.

No fee is believed due with this Response. If, however, Applicants have overlooked the need for any fee due with this Response, the Commissioner is hereby authorized to charge any fees or credit any overpayment associated with this Response to Deposit Account No. 08-2025 of Hewlett-Packard Company.

Respectfully submitted,

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